REMARKS

The present Amendment responds to the Office Action dated March 16, 2006 having a shortened statutory period for response set to expire June 16, 2006. Filed concurrently herewith is a request for a one (1) month extension of time to respond, making the present Amendment due by July 16, 2006.

Before addressing the Office Action, it may be helpful to briefly summarize the Examiner's previous Restriction Requirement and Applicants' response thereto. Pursuant to the Restriction Requirement dated February 14, 2005, Applicants elected polymer resins of species (a) having as the surface modifying compound of formula (IVA) in which:

X is NH_2;

Y is polyoxypropylene

Y' is C_3H_6 [n-propylene]; and

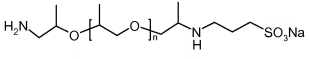
Z is sulfonate.

In the Office Action of June 10, 2005, the Examiner acknowledged Applicants' election and requested Applicants to locate support in the originally filed specification for formula IVA. In responding to this request, Applicants inadvertently referred the Examiner to portions of PCT/GB01/02452 (WO 01/94001), which as the Examiner correctly observes in the present Office Action, is not the specification originally filed. Applicants apologize for the confusion.

In responding to the Examiner's request, which is renewed in the present Office Action, Applicants note first that present application claims the benefit of two earlier filed provisional applications – SN 60/209,719 and SN 60/209,734, both of which were filed on June 5, 2000. Applicants respectfully submit that the present nonprovisional application, filed June 5, 2001, does, indeed, support the surface modifying compound of formula IVA. Specifically, the Examiner's attention is directed to page 15, line 14 through page 16, line 17 of the original specification, the text of which is repeated here, with emphasis added.

> In structure (IV), the group -X- is both a linking group and is capable of reacting with the wall-forming material. It is preferred that the group -X- in structure (IV) is -NH-. **Thus a general formula for a compound of structure (IV) is (IVA):-**
>
> **X-Y-NH-Y'-Z (IVA)**

wherein Y and Y' may be any of the linking moieties described above or, when Z is an oxyethylene containing polymer may represent a direct link between Z- and -NH-. It will be appreciated that the reactivity of the groups –X and -NH- respectively with the wall-forming material will not necessarily be the same and, depending on the groups concerned, the primary reaction with the wall-forming material may be either via the terminal group –X or via the group -NH-. In some circumstances there may be no reaction between a group -NH- and the wall-forming material and in such a case, the group -NH- should not be regarded as a group -X- but rather as an internal amino linking group in the moiety joining X and Z. Preferred structures of Y and Y' include independently a straight or branched chain C_1 to C_{10} alkyl group, a polyoxyethylene, or more preferably polyoxypropylene or polyoxybutylene polymer chain of formula $-(L_1)_n-$ as defined above or a group $-(L_2)-R_9-$ as defined above or a group $-R_{12}-(L_2)-R_9-$ wherein R_9 and L_2 are as defined above and R_{12} is a C_1 to C_4 alkyl group. Compounds of formula (IVA) are represented for example by



Raschig Poly-EPS 520-Na

(i) PolyEPS 520 available from Raschig wherein -Y- is polyoxyproplyene and Y' is a C_3 alkyl group, (ii) the Michael adduct of Jeffamine 1000M (available from Huntsman) and ethylhydroxyethylacrylate wherein Z is a methyl-capped polyoxyethylene-containing polymer linked directly to -NH- and Y' is a group $-R_{12}-(L_2)-R_9-$ as defined above in which R_9 is oxyethylene [$MeOEO_nPO_mNHCH_2CH_2COOCH_2CH_2OH$ where n is about 18 and m is about 3] (iii) the ethoxylated adduct of Jeffamine M1000 wherein Z is a methyl-capped polyoxyethylene-containing polymer linked directly

to -NH- and Y is a polyoxyethylene group $[MeOEO_nPO_mNH(CH_2CH_2O)_nH]$.

With reference to the foregoing, then, Applicants submit that the originally filed specification adequately supports the structure IVA and further that no new matter has been added to the application. Additionally, Applicants submit that they have now addressed the Examiner's rejection of claims 28-31 and 33-44 under 35 U.S.C. § 112, first paragraph.

With continued reference to the present Office Action, the Examiner noted that the previous amendments to claims 34 and 43, and the addition of new claim 44 included the unelected compounds 1A-1D, IIA-IIC and IIIA-IIID. Applicants acknowledge that the examination of these claims was directed to the elected species of formula IVA. Applicants take this opportunity to note that claims 34 and 43 as amended, and new claim 44 are readable on the elected species and the inclusion of the unelected compounds as elements of those claims is pursuant to 37 CFR 1.141, and as further stated on page 3 of the Office Action dated February 14, 2005, each of which provide that the Examiner is to consider claims to additional species, which are written in dependent form or otherwise include all the limitations of an allowed generic claims. Thus far, the Examiner has identified both claims 28 and 34 as generic claims.

Turning next to claim 43, the Examiner has rejected the claim under 35 U.S.C. § 112, second paragraph, taking the position that the wording "the soil mobility" in line 1 of the claim lacks proper antecedent basis. Applicants, however, take the position that "the soil mobility" does have reasonable antecedent basis. Section 2173.05(e) provides, in part,

> If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. *Ex parte Porter*, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992) ("controlled stream of fluid" provided reasonable antecedent basis for "the controlled fluid"). Inherent components of elements recited have antecedent basis in the recitation of the components themselves. For example, the limitation "the outer surface of said sphere" would not require an antecedent recitation that the sphere has an outer surface. >See *Bose Corp. v. JBL, Inc*., 274 F.3d 1354, 1359, 61 USPQ2d 1216, 1218-19 (Fed. Cir 2001) (holding that recitation of "an ellipse" provided antecedent basis for "an ellipse having a major diameter" because "[t]here can be no dispute that mathematically an inherent characteristic of an ellipse is a major diameter").

(MPEP § 2173.05(e), p. 2100-220). Here, Applicants submit that "soil mobility" is an inherent characteristic of agrochemicals and therefore antecedent basis is in the recitation of the

characteristic itself. Moreover, Applicants believe that the scope of the claim is reasonably ascertainable by those skilled in the art and therefore not indefinite. Accordingly, Applicants respectfully request the Examiner to reconsider this rejection of claim 43.

Turning now to the substantive rejections, the Examiner has maintained the previous rejections of claims 28-31, 34, 37, and 40-42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,465,756 to Mikami et al., as well as the previous § 102(b) rejection of claims 28, 29, 34, and 40-43 as being anticipated by U.S. Patent No. 5,925,595 to Seitz et al. Additionally, the Examiner has rejected claim 44 under 35. U.S.C. § 103(a) as being unpatentable over the Mikami et al. patent. Applicants maintain their position previously set forth in the last communication with respect to the Examiner's § 102(b) claim rejections, and respectfully submit that neither the Mikami et al. patent nor the Seitz et al. patent anticipate the claims as argued by the Examiner.

With respect to the Mikami et al. reference, the Examiner takes the position that it teaches sodium tetradecylamidophenylsulfonate, which anticipates formula IVA. As explained in the previous communication, sodium tetradecylamidophenylsulfonate includes elements *outside of* Applicants' defined scope of formula IVA, and particularly elements X, Y, and Y'. The Examiner's response to Applicants' arguments, found on page 6 of the present Office Action, does not explain why this argument was found unpersuasive. Rather, the response simply states "[r]egarding the compound of formula (IVA), which as per applicants is represented by one example whose structure is provided at page 23 of the communication, it is noted that the structure disclosed by the prior art meets the limitation of formula (IVA)." If in Applicants claimed invention X cannot be sodium, Y cannot be $C_{14}H_{28}$, and Y' cannot be phenyl, how does Mikami et al. anticipate the claims? Applicants respectfully request that the Examiner reconsider the rejection of the claims over the Mikami et al. reference or otherwise further explain how sodium tetradecylamidophenylsulfonate meets the limitations of formula IVA as claimed so that Applicants can respond.

With respect to the Examiner's § 102(b) rejection of the claims over the Seitz et al. reference, Applicants stated that none of the colloids identified by the Examiner met the limitations of formula IVA as claimed. Further, Applicants requested that the Examiner further explain her position by specifically identifying the values of X, Y, Y', and N of those colloids believed to be readable upon formula IVA. However, the present Office Action offers no further

explanation and Applicants remain unclear as to how any of the colloids identified by the Examiner meet the limitations of formula IV as claimed. Applicants

Finally, the Examiner has rejected claim 44, which was added in responding to the previous Office Action. The Examiner states "Mikami does not disclose the specific ratio of the total –NCO moieties in the wall-forming material to the total reactive moieties in the surface-modifying compound." However, the Examiner takes the position "[o]ne skilled in the art would have been motivated to use the specific amounts of the isocyanate compound and the surface modifying agent that is expected to yield the desired resin for encapsulating the active agent." In responding to the Examiner's position, Applicants again refer to the above arguments as well as those previously submitted with respect to the Mikami et al. reference. With those in mind, even assuming *arguendo* that one of ordinary skill in the art would be motivated to modify the Mikami et al. procedure to arrived at the claimed ratio, the compound arrived at would not meet the limitations of formula IVA. Section 2143.03 of the MPEP provides "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Since not all of the claim limitations of claim 44 can be met, even if the Mikami process is modified as suggested by the Examiner, the § 103 rejection of this claim is not proper. Applicants believe that claim 44 is in condition for allowance.

Based upon the foregoing then, Applicants submit that the pending claims are in condition for allowance and the Examiner is courteously solicited to pass this application on to allowance. No other fees are believed to be payable at this time. However, the Commissioner is authorized to debit any applicable fees from the deposit account of the undersigned, No. 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

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